

**ASSEMBLY BILL**

**No. 603**

---

**Introduced by Assembly Member Cooley**

February 20, 2013

---

An act to amend Sections 6800, 6801, and 6803 of, to add the heading of Article 1 (commencing with Section 6800) to Chapter 6.5 of Part 1 of Division 2 of, to add Article 2 (commencing with Section 6815) to Chapter 6.5 of Part 1 of Division 2 of, and to repeal Section 6813 of, the Public Contract Code, relating to design-build.

LEGISLATIVE COUNSEL’S DIGEST

AB 603, as introduced, Cooley. Public contracts: design-build.

Existing law provides for a Design-Build Demonstration Program that allows for a local transportation entity to utilize the design-build method of procurement for a specified amount of projects for local and state projects. Existing law defines “local transportation entity” as a designated transportation authority, a consolidated agency, the Santa Clara Valley Transportation Authority, any other local or regional transportation entity that is designated as a regional transformation agency. Existing law subjects both local and state projects to specified procedural requirements to qualify as a design-build project. Existing law repeals these provisions on January 1, 2014.

This bill would include in the definition of a local transportation entity a city, county, city and county, and a joint powers authority. This bill would only apply the specified procedural requirements to the state design-build projects. This bill would delete the repeal date. This bill would also authorize the Capital Southeast Connector Joint Powers Authority to use design-build procurement, as specified. This bill makes findings regarding the need for special legislation.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. The heading of Article 1 (commencing with Section 6800) is added to Chapter 6.5 of Part 1 of Division 2 of the Public Contract Code, to read:

Article 1. General

SEC. 2. Section 6800 of the Public Contract Code is amended to read:

6800. The Legislature hereby finds and declares all of the following:

~~The~~  
(a) ~~The design-build method of procurement authorized under this chapter should be evaluated for the purposes of exploring whether the potential exists for reduced project costs, expedited project completion, or design features that are not achievable through the traditional design-bid-build method. A demonstration program will allow for a careful examination of the benefits and challenges of design-build contracting on a limited number of projects.~~ This chapter shall not be deemed to provide a preference for the design-build method over other procurement methodologies.

(b) *The Design-Build Demonstration Program will allow for a careful examination of the benefits and challenges of the design-build contracting method on a limited number of projects.*

(c) *This article offers specified local agencies the opportunity to seek approval by the commission for the utilization of the design-build contracting method for up to five projects. According to the 2012 annual report to the Legislature submitted by the commission, none of the five available local projects have been utilized for the design-build procurement method by local entities.*

(d) *For the Legislature to fully understand the potential that the design-build contracting method presents through this Design-Build Demonstration Program, it is appropriate to expand the definition of a local transportation entity.*

SEC. 3. Section 6801 of the Public Contract Code is amended to read:

6801. For purposes of this chapter, the following definitions apply:

(a) “Best value” means a value determined by objective criteria, including, but not limited to, price, features, functions, life cycle costs, and other criteria deemed appropriate by the transportation entity.

(b) “Commission” means the California Transportation Commission.

(c) “Design-build” means a procurement process in which both the design and construction of a project are procured from a single entity.

(d) “Design-build entity” means a partnership, corporation, or other legal entity that is able to provide appropriately licensed contracting, architectural, and engineering services as needed pursuant to a design-build contract.

(e) “Design-build team” means the design-build entity itself and the individuals and other entities identified by the design-build entity as members of its team.

(f) “Department” means the Department of Transportation as established under Part 5 (commencing with Section 14000) of Division 3 of the Government Code.

(g) “Local transportation entity” means a transportation authority designated pursuant to Division 19 (commencing with Section 180000) of the Public Utilities Code, ~~any~~ a consolidated agency created pursuant to Chapter 3 (commencing with Section 132350) of Division 12.7 of the Public Utilities Code, the Santa Clara Valley Transportation Authority established under Part 12 (commencing with Section 100000) of Division 10 of the Public Utilities Code, ~~and~~ any other local or regional transportation entity that is designated by statute as a regional transportation ~~agency~~, *agency*, *and a joint powers authority formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, with the consent of a transportation planning agency or a county transportation commission for the jurisdiction in which the transportation project will be developed.*

(h) “Transportation entity” means the department or a local transportation entity.

SEC. 4. Section 6803 of the Public Contract Code is amended to read:

1 6803. (a) Only 15 design-build projects shall be authorized  
2 under this chapter. The projects selected shall vary in size, type,  
3 and geographical location.

4 (b) The commission shall determine whether a transportation  
5 entity may award a design-build contract based on lowest  
6 responsible bid or best value. The commission shall balance the  
7 number of transportation entities that may use the low bid and best  
8 value selection methods in order to ensure that the number of  
9 design-build contracts awarded will enable the commission to  
10 determine the costs and benefits of using each method.

11 (c) In order to be eligible for consideration as one of the ~~15~~ 10  
12 design-build projects authorized under ~~this chapter~~ *subdivision (b)*  
13 *of Section 6802*, the proposed project shall be subject to the existing  
14 process under the state transportation improvement program  
15 (Chapter 2 (commencing with Section 14520) of Part 5.3 of  
16 Division 3 of Title 2 of the Government Code), the Highway  
17 Safety, Traffic Reduction, Air Quality, and Port Security Bond  
18 Act of 2006 (Chapter 12.49 (commencing with Section 8879.20)  
19 of Division 1 of Title 2 of the Government Code), the traffic  
20 congestion relief program (Chapter 4.5 (commencing with Section  
21 14556) of Part 5.3 of Division 3 of Title 2 of the Government  
22 Code), or the state highway operations and protection program  
23 established pursuant to Section 14526.5 of the Government Code.

24 (d) The commission shall establish a peer review committee to  
25 conduct an evaluation of the 15 projects selected to utilize the  
26 design-build method of procurement.

27 (e) The commission shall develop guidelines for a standard  
28 organizational conflict-of-interest policy, consistent with applicable  
29 law, regarding the ability of a person or entity, that performs  
30 services for the transportation entity relating to the solicitation of  
31 a design-build project, to submit a proposal as a design-build entity,  
32 or to join a design-build team. This conflict-of-interest policy shall  
33 apply to each transportation entity entering into design-build  
34 contracts authorized under this chapter.

35 SEC. 5. Section 6813 of the Public Contract Code is repealed.

36 ~~6813. This chapter shall remain in effect only until January 1,~~  
37 ~~2014, and as of that date is repealed, unless a later enacted statute,~~  
38 ~~that is enacted before January 1, 2014, deletes or extends that date.~~

1 SEC. 6. Article 2 (commencing with Section 6815) is added  
2 to Chapter 6.5 of Part 1 of Division 2 of the Public Contract Code,  
3 to read:

4  
5 Article 2. Capital Southeast Connector Joint Powers Authority

6  
7 6815. The Capital Southeast Connector Joint Powers Authority  
8 may use the design-build method of procurement for transportation  
9 projects, subject to the requirements for utilizing that method  
10 pursuant to Article 1 (commencing with Section 6800). However,  
11 Sections 6802 and 6803 shall not apply to contracts let by the  
12 Capital Southeast Connector Joint Powers Authority when using  
13 the design-build method of procurement.

14 SEC. 7. The Legislature finds and declares that a special law  
15 is necessary and that a general law cannot be made applicable  
16 within the meaning of Section 16 of Article IV of the California  
17 Constitution because of the unique need to build and improve a  
18 connecting roadway for the Cities of Elk Grove, Folsom, and  
19 Rancho Cordova, and El Dorado and Sacramento Counties in a  
20 cost-effective manner.